

CHAPTER 7
LOCAL EMERGENCY MANAGEMENT

[Prior to 4/18/90, Public Defense Department(650), Ch 7]
[Prior to 5/12/93, Disaster Services Division(607), Ch 7]

605—7.1(29C) Eligibility requirements. Each local commission, or joint commission, after July 1, 1993, must meet eligibility requirements 7.1(1) to 7.1(6) before federal emergency management assistance funds will be authorized. Local commissions, or joint commissions, after July 1, 1993, may be eligible for all program benefits excluding federal emergency management assistance funds by appointing a qualified coordinator providing less than an average of 20 hours per week but more than 10 hours per week toward the emergency management effort; eligibility requirements 7.1(1), 7.1(2), 7.1(4), and 7.1(5) must, however, be met.

7.1(1) Form a local commission, appointing a chairperson and vice chairperson, according to the membership requirements in Iowa Code section 29C.9.

7.1(2) Appoint a qualified emergency management coordinator possessing such qualifications as established by rule of the administrator of the division.

7.1(3) Appoint a qualified coordinator who provides a minimum average of 20 hours per week toward the emergency management effort.

7.1(4) Complete a comprehensive countywide emergency operations plan in consonance with standards established by the division.

7.1(5) Comply with standards and procedures required by the Federal Emergency Management Agency (FEMA) as specified in the Federal Assistance Handbook, CPG 1-3, August 1992, current copies of which are on file and available for public view in the division.

7.1(6) An approved personnel merit system.

This rule is intended to implement Iowa Code sections 29C.9 and 29C.13.

605—7.2(29C) Emergency management coordinator. The representative of the local commission or joint commission serving as coordinator shall not be a member of a local commission or joint commission, nor shall an elected official serve as coordinator. An individual serving in a full-time or part-time governmental position having incompatibility with the position of coordinator shall not be appointed as emergency management coordinator. The commission shall delegate to the emergency management coordinator the authority to fulfill the commission duties as described in subrule 7.9(2).

605—7.3(29C) Emergency management coordinator qualifications. Each person appointed after July 1, 1990, as an emergency management coordinator, shall meet requirements 7.3(1) through 7.3(10) of the following education, abilities, experience, knowledge and skills:

7.3(1) Local, state, and federal laws and regulations pertaining to emergency management.

7.3(2) Communications systems, frequencies and equipment capabilities.

7.3(3) Office management, procedures, and organizational principles.

7.3(4) Basic accounting principles and practices.

7.3(5) Express oneself clearly and concisely, both orally and in writing.

7.3(6) Establish and maintain effective working relationship with employees, public officials, and the general public.

7.3(7) Prepare accurate reports.

7.3(8) Write plans and direct the use of resources and coordinate emergency operations under extraordinary circumstances.

7.3(9) Exercise good judgment in evaluating situations and making decisions.

7.3(10) Graduation from an accredited four-year college or university and two years of responsible experience in emergency management, business administration, public relations, military preparedness or related work; or an equivalent combination of experience and education, substituting 30 semester hours of graduate study for each year of the required work experience to a maximum of two

years; or an equivalent combination of experience and education, substituting one year of experience in the aforementioned areas for each year of college to a maximum of four years; or employees with current continuous experience in the state classified service that includes the equivalent of 18 months of full-time experience as an emergency management operations officer shall be considered as qualifying; or employees with current continuous experience in the state classified service that includes the equivalent of 36 months of full-time experience as a local emergency management assistant shall be considered as qualifying.

605—7.4(29C) Local commission or joint commission personnel. Personnel for the local commission or joint commission shall be considered as employees of that local commission to include the coordinator, operations officers, and emergency management assistants. The local commission or joint commission shall determine the personnel policies to include holidays, rate of pay, sick leave, vacation and health benefits. The local commission may adopt existing county or city policies in lieu of writing their own policies.

605—7.5(29C) Emergency management coordinator continuing education requirements. Each local coordinator shall meet the following educational development requirements within four years of appointment as coordinator, or within two years of June 16, 1993. The administrator may extend the time frames upon request from the local commission or joint commission.

7.5(1) Home study. Emergency Program Manager; Emergency Management USA; Preparedness Planning for a Nuclear Crisis.

7.5(2) Field courses. Introduction to Emergency Management; Emergency Planning; Basic Skills in Emergency Management; Civil Defense Systems, Programs and Policies; Developing Volunteer Resources; and Continuity of Government.

605—7.6(29C) Comprehensive countywide emergency operations plans. Approval of comprehensive countywide emergency operations plans shall be in accordance with the Standard for Local Disaster Planning, October 1985, which may be amended or updated from time to time to reflect current planning standards developed by and on file in the division. The standard is distributed to all coordinators.

605—7.7(29C) Compliance. The administrator may withhold federal matching funds for personnel and administrative expenses, student reimbursement expenses, and project applications, to any local commission, or joint commission for failure of the following conditions:

7.7(1) Appoint a qualified coordinator.

7.7(2) Comply with continuing education requirements.

7.7(3) Develop and adopt a comprehensive countywide emergency operations plan.

7.7(4) Determine the mission of its agency, show continuing program progress, fulfill commission duties and conduct its business according to guidelines in this chapter.

7.7(5) Annually file a comprehensive cooperative agreement with the division on the stipulated filing date, if participating in the assistance program.

7.7(6) Abide by the state and federal regulations governing the proper disbursement and accountability for federal funds, equal employment opportunity and merit system standards.

7.7(7) Program compliance:

a. Serious nonperformance problems.

(1) If a local commission or joint commission cannot demonstrate achievement of agreed-upon outputs, the division is empowered to recover funds from the local/joint commission. Corrective action procedures are designed to focus the local/joint commission's attention on nonperformance problem(s) and to bring about compliance with the agreement. Financial sanctions are to be applied only after corrective action remedies fail to result in accomplishment of agreed-upon objectives. Sanctions

neither further national objectives nor contribute to county emergency capabilities and are, therefore, a last resort.

(2) Corrective action procedures, which could lead to sanctions, may be enacted as soon as the administrator becomes aware of possible serious present or future nonperformance or noncompliance. This realization may arise from staff visits or other normal contacts, from local commission/joint commission quarterly reports that indicate a significant shortfall from planned accomplishments, or from a local commission/joint commission failure to report.

(3) Serious major nonperformance problems that are not amenable to usual negotiations are:

1. Failure to accomplish work specified in one or more program areas, as agreed upon in the comprehensive cooperative agreement, in state rules or statute.
2. Failure to provide an acceptable amount or type of matching contribution.
3. Expenditures of funds for purposes other than those specified in the agreement.
4. Failure to expend funds in a reasonable accordance with applicable laws, regulations, terms and conditions.
5. Action or inaction which makes it apparent that nonperformance or a violation will occur in the future.
6. Failure to respond to, or cooperate with, state efforts to determine the extent and nature of compliance with the agreement.

b. Corrective actions.

(1) Informal corrective action. As a first and most basic step to correcting nonperformance, the state staff will visit, call or write the local coordinator to determine the reason for nonperformance and seek resolution. In most cases, state staff will conclude from these discussions that a reasonable effort is being made by the local commission/joint commission to meet its commitments, and satisfactory remedial action will be negotiated.

(2) Formal corrective action. There may be occasions when responses of informal corrective action are not satisfactory or when the discrepancy between accomplishment and expenditures is too wide to be explained. Under these circumstances, the state is to take the following steps:

1. The state staff is to review the extent to which nonperformance extends to other program areas. If nonperformance is occurring in other program areas as well, all such instances will be treated together in the same correspondence with the local commission/joint commission to focus attention on the total problem.

2. The state staff responsible for the delinquent program(s) will prepare a letter. The letter should contain at least the following information:

The reasons why the state believes the local commission or joint commission may be in noncompliance including the provisions in question.

- A description of the efforts made by state to resolve the matter and the reasons why these were unsuccessful.

- A declaration of local's commitment to accomplishing the work agreed upon and specified in the CCA and its importance to the emergency management capability of the local jurisdiction.

- A description of exactly what actions are required of the local commission/joint commission at this stage to move each problem to resolution. At least, the local commission/joint commission will be required to furnish additional information and a proposal for corrective action. Required corrective action should be designed to: first, prevent a continuance of the deficiency; second, mitigate any adverse effects or consequences of the deficiency to the extent possible under the circumstances; and third, prevent a recurrence of the same or similar deficiency. As there may be a number of acceptable solutions to resolving a deficiency, the local commission/joint commission should be allowed to respond to each problem with any reasonable solution of its choice. The state may also offer further informal consultations regarding the problem, if appropriate.

- A statement that this letter constitutes the final no-penalty effort to achieve a resolution, and that financial sanctions provided for in these rules will be undertaken if a satisfactory response is not re-

ceived within 30 days. It should also indicate that subsequent correspondence will be addressed to a specified higher organizational level.

3. The administrator will issue the letter to the local commission. This letter is preliminary to a notice to enact sanctions type of letter, and the tone should be appropriate to the overall accomplishment of the local commission/joint commission.

4. In the event that no reply to the preliminary letter is received within the 30-day period, the administrator or designee will telephone the emergency management coordinator for an explanation. If a reply is not completely satisfactory but indicates a good faith effort to comply with CCA provisions and program requirements, then there is a basis for further negotiations and technical assistance. These new negotiations may settle the matter. If they do not, the administrator then begins the imposition of financial sanctions.

(3) Sanctions. If the corrective action steps already described fail to produce a satisfactory outcome in cases of serious nonperformance problems, the next step is to invoke the sanction procedures:

1. Send a "Notice of Intention to Withhold Payment" to the chairperson of the local commission/joint commission.

2. If within 15 days after receipt of the notice, the local commission/joint commission requests the administrator to hold the hearing, the administrator will give the local commission/joint commission reasonable notice of the time and place of the hearing.

3. Any hearing under the notice of intention to withhold payments shall be held before the administrator. The administrator may designate an administrative law judge who will take evidence and certify, to the administrator, the entire record, including recommended findings, and a proposed decision.

4. The local commission/joint commission, where applicable, shall be given full opportunity to present their position, orally and in writing.

(4) Withholding of payments.

1. If, after the hearing, or after opportunity therefor, the administrator finds in accordance with the regulations, terms, and conditions established, the administrator will withhold such contributions and payments as may be considered advisable until the failure to expend funds in accordance with the regulations, terms, and conditions has been corrected or is satisfied that there will no longer be any such failure.

2. If, upon the expiration of the 15-day period stated for a hearing a hearing has not been requested, the administrator may issue the finding described in subparagraph (1) of the paragraph, and thereupon withhold contributions and payments until the administrator is satisfied that there will no longer be any failure to expend funds in accordance with regulations, terms, and conditions governing a federal contribution for an approved program or project.

3. A local jurisdiction that regards the final action on its subgrant made by a state as unjustified under the criteria in CPG 1-3 may submit an appeal through the state to the regional director.

4. Any funds which become available to the division from the imposition of sanctions to withdraw money from an already awarded grant or withhold money from a grant not yet awarded will be distributed among other commissions participating in the emergency management assistance grant programs.

605—7.8(29C) Local mutual aid arrangements. Coordinator in each county shall coordinate the development of written mutual aid agreement(s). Such intracounty agreement(s) shall provide for assistance on a reciprocal basis (mutual aid) among the municipalities of a county, and between those municipalities and that county government or private sector.

7.8(1) Mutual aid agreements shall be submitted for review to the division.

7.8(2) Mutual aid agreements shall be in compliance with the requirements contained in Iowa Code sections 28E.4, 28E.5, 28E.6 and 28E.8.

7.8(3) Guidance for the development of mutual aid agreements is available from the division.

605—7.9(29C) Local emergency management commission. The formation of the local emergency management commission is mandated by Iowa Code section 29C.9. The local commission has a statutory relationship with the state emergency management division. The name used by the office of the local commission shall be (county name) county emergency management agency, as established in Iowa Code subsection 29C.9(3).

7.9(1) Local or joint commission bylaws. The commission bylaws shall be developed to contain the following minimum information as state guidance: the commission's name, membership, commencement of operations, duration, purpose, powers and duties, financial matters, acquiring, holding and disposing of properties, appointment of officers and terms of office, voting, employees, meetings, rules or procedures, severability of bylaws, and dissolution. The commission shall have the signed bylaws recorded with the county recorder and shall forward a copy to the administrator.

7.9(2) Local or joint commission duties. The division's guidance for the minimum duties of the commission for inclusion in the bylaws are: negotiate funding methods for the commission; provide guidelines to the commission's emergency management coordinator for the accomplishment of commission business; provide commission guidelines for the commission emergency management coordinator to deliver emergency management services of planning, administration, coordination, training and support for local government and their departments; provide guidelines to coordinate commission services in the event of a disaster; provide procedures for obtaining approval and development of a comprehensive countywide emergency operations plan by local government(s) that meets state standards prepared by the state emergency management division.

a. It is the local or joint commission duties to fulfill the requirements in subrules 7.1(1), 7.1(2), and 7.1(4), and:

(1) Define the mission of its agency and program and provide direction for the delivery of the emergency management services of planning, administration, coordination, training and support for local governments,

(2) Create and maintain a file of all locally available resources for disaster response and recovery,

(3) Coordinate emergency management activities and services among the county and city governments and the private sector,

(4) Annually prepare and adopt a budget according to Iowa Code chapter 24 and Iowa Code section 29C.17,

(5) Determine and adopt a personnel policy for local/joint commission employees according to rule 7.1(29C),

(6) Submit an annual status report on the local/joint commission's emergency management program to the local jurisdictions and to the state division. The state division will provide the format for this report. It shall be due 90 days after the end of the state's fiscal year, or upon an otherwise specified date identified in the report format, and

(7) Establish and maintain an agency responsible for the local emergency management program. The primary responsibility of this agency is to develop and maintain comprehensive emergency management capability in cooperation with other governmental agencies, volunteer organizations and private sector organizations.

b. Reserved.

7.9(3) Local or joint commission business. Commission business shall be conducted in compliance with Iowa Code chapter 21, "Official Meetings Open to Public," and Iowa Code chapter 22, "Examination of Public Records."

7.9(4) Agency funding. The local commission or joint commission shall develop a funding mechanism in accordance with Iowa Code section 29C.17. The commission shall be the fiscal authority and the chairperson or vice chairperson is the certifying official for the budget.

7.9(5) Two or more commissions. Two or more local commissions may enter into an agreement, pursuant to Iowa Code subsection 29C.9(10). The administrator must review such agreements. The division will provide guidance and a model 28E Agreement for joining two or more commissions. If two or more commissions join together, emergency operations plans for each county are still required.

605—7.10(29C) Damage assessment and financial assistance for disaster recovery. Disaster-related expenditures and damages incurred categorically by local governments and private nonprofit agencies, individuals, and businesses may be reimbursable and covered under the federal/state disaster assistance programs. Preliminary damage assessment costs shall be provided to the emergency management division prior to the governor making a determination that the magnitude and impact are sufficient to warrant a presidential declaration request.

7.10(1) Local preliminary damage assessment and impact statement. The local officials shall immediately direct their damage assessment team members to conduct a preliminary damage assessment and impact statement for the following items to request federal and state disaster assistance:

a. Individual assistance program damage assessment and impact statement. The assessment shall include a preliminary estimate of the number of households and businesses affected and an impact statement describing the extent of damage and the effect of the disaster on the population involved.

b. Public assistance program damage assessment and impact statement. The assessment shall include a preliminary estimate of the number of private nonprofit organizations, public jurisdictional properties and infrastructures affected, and an impact statement describing the extent of damage and the effect of the disaster on the entities involved.

c. Extent of damage calculation. The extent of damage shall include those losses not covered by insurance.

7.10(2) Forfeiture of assistance funding. Failure to provide timely and accurate preliminary damage assessment cost figures may jeopardize or eliminate eligible applicants from receiving federal and state disaster assistance funds for recovery costs to recovery to predisaster conditions for individual, private nonprofit organizations, governmental entities, and businesses.

7.10(3) Joint preliminary damage assessment. Once the governor has determined a presidential request is appropriate, joint damage assessment teams consisting of local, state, and federal inspectors will assess the uninsured damages and costs incurred for responding and recovering from the disaster. The affected city or county jurisdiction shall be required to provide assistance to the joint damage assessment teams to conduct the damage assessments. The jurisdiction shall develop maps to show the damage areas, and compile lists of names and phone numbers of individuals, businesses, private nonprofits, or governmental entities sustaining damages. These uninsured cost estimates and the impact statements are required before the request will be accepted by FEMA. News releases through all media available to the jurisdiction should be used to reach potential individual, private nonprofit and business applicants.

7.10(4) Public assistance briefing. The affected jurisdictions and eligible private nonprofit organizations should be prepared to attend the public assistance briefing to acquire the information and documents needed to make their public assistance applications promptly. Failure to meet FEMA rules 44 CFR Part 206 deadlines for applications under the Stafford Act (PL 923-288) will jeopardize or eliminate eligibility for federal assistance for the eligible applicants sustaining damages.

7.10(5) Application for public assistance funds. After a presidential declaration, the joint damage assessment team, including the coordinator, jurisdictional officials, and private nonprofit officers will develop damage survey reports (DSRs) in the declared counties. Grants will be disbursed only after the DSRs are written by the federal inspectors and processed through both the division and FEMA.

These rules are intended to implement Iowa Code chapter 29C.

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